

RECORDING REQUESTED BY

SOUTHERN PACIFIC
TRANSPORTATION COMPANY

RECORDED AT REQUEST OF
NORTH AMERICAN TITLE CO.

AND WHEN RECORDED MAIL TO

Dept. of Toxic Substances Control
700 Heinz, Suite 200
Berkeley, CA 94710

SEP 13 1995

9-13-95
8 O'CLOCK A.M.
AT
CONTRA COSTA COUNTY RECORDS
STEPHEN L. WEIR
COUNTY RECORDER

95. 152781

FEE \$

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT
TO RESTRICT USE OF PROPERTY

THE FORMER "LIQUID GOLD" SITE
RICHMOND, CALIFORNIA

COVENANT OF DEED RESTRICTION

95 152781

COVENANT
TO RESTRICT USE OF PROPERTY

The Former "Liquid Gold" Site
Richmond, California

This Covenant and Agreement ("Covenant") is made on the 25
day of ~~June~~ ^{July 28th}, 1995 by Southern Pacific Transportation Company
("Covenantor"), which is the owner of record of certain property
situated in Richmond, County of Contra Costa, State of
California, described in Exhibit "A" attached hereto and
incorporated herein by this reference and as shown in Exhibits
"B", "C" & "D" attached hereto and incorporated herein by this
reference (the "Property"), and by the Department of Toxic
Substances Control (the "Department"). Covenantor and the
Department desire and intend that in order to protect the present
and future public health and safety, the Property shall be used
in such a manner as to avoid potential harm to persons or
property which may result from hazardous substances which have
been deposited on the Property.

ARTICLE I

STATEMENT OF FACTS

1.01 Description of Contamination. The site, commonly

referred to as the Liquid Gold site, consists of about 18 acres of an approximately 40-acre property, including Hoffman Marsh, currently owned by Southern Pacific Transportation Company. The site was formerly the location of an asphalt manufacturing facility and later of Liquid Gold, which operated a waste oil collection, storage and transshipment facility. All operations ceased in 1980 and the site is presently inactive, with the exception of a firing range on a portion of the property.

Soil and groundwater investigations at the site found areas in which the soil contained lead and PAHs at concentrations greater than those acceptable for residential exposure. Concentrations of metals (lead, nickel, and zinc) were found to be elevated in one monitoring well in the shallow groundwater zone. Groundwater in both aquifers is not potable.

The site is being remediated in accordance with the Remedial Action Plan (RAP) which was approved, after public notice and comment, in June, 1993 by the Department and subsequently by the US EPA. The final remedial action includes grading to control runoff patterns; placing 2 feet of clean imported surface soil over a portion of the Property (See Exhibit D); seeding the area with native plants; access restrictions to prevent disturbance of the vegetated soil cover, which include fencing and signage; recording a restrictive covenant on the property to prevent

1 residential development of the site or use of the groundwater
2 below the site; groundwater monitoring for a minimum of 5 years;
3 and removal, consolidation and capping on the upland area of
4 sediments and debris from two drainage channels in the adjacent
5 marsh areas.

6
7 1.02 Potential Exposure Pathways and Health Risk. Exposure
8 pathways may be via in-place contact, surface water runoff, and
9 wind dispersal, resulting in dermal contact, inhalation, or
10 ingestion by humans or animals. The risk of public exposure is
11 lessened by distance from contaminants, shortened length of time
12 of exposure, containment of contaminants and mitigation measures
13 to control exposure. The health effects of contaminants found on
14 site are described in Exhibit E, "Health Effects of the
15 Contaminants."

16
17 1.03 Surrounding Land Use. The Property is located in the
18 City of Richmond, west of Interstate 580 and southwest of the
19 Bayview west interchange, adjacent to the San Francisco Bay.
20 Surrounding the Liquid Gold site are industrial areas to the
21 north across Stege Drainage Channel, Point Isabel, a remediated
22 hazardous substances site now used as park land, to the south,
23 and Highway 580 to the east. To the west and immediately
24 adjacent to the site are tidal wetlands and the San Francisco
25 Bay. The nearest residential area is located just east of
26
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1 Highway 580 and is within one-fourth mile radius. A residential
2 area west of Carlson Boulevard and north of Colusa Street is
3 being developed and is within one mile of the site. Neighboring
4 businesses are light industry located north of the site across
5 Stege Drainage Channel and east of Highway 580 in the area west
6 of Carlson Boulevard and north of Colusa Street.

7
8 ARTICLE II

9 GENERAL PROVISIONS

10 2.01 Provisions to Run with the Land. This Covenant sets
11 forth protective provisions, covenants, restrictions, and
12 conditions (collectively referred to as "Restrictions"), upon and
13 subject to which the Property and every portion thereof shall be
14 improved, held, used, occupied, leased, sold, hypothecated,
15 encumbered, and/or conveyed. Each and all of the Restrictions
16 shall run with the land, and pass with each and every portion of
17 the Property, and shall apply to, inure to the benefit of, and
18 bind the respective successors in interest of Covenantor. Each
19 and all of the Restrictions are imposed upon the entire Property
20 unless expressly stated as applicable to a specific portion of
21 the Property. Each and all of the Restrictions are imposed
22 pursuant to Health and Safety Code Sections 25222.1, 25355.5 and
23 25356.1 and run with the land pursuant to Health and Safety Code
24 Sections 25222.1, 25230(a)(1) and 25355.5. Each and all of the
25 Restrictions are for the benefit of and enforceable by the
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Department.

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2.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

2.03 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all future deeds and leases of any portion of the Property.

2.04 Statement Regarding Condition of the Property. The purpose of this Covenant is to protect occupants of the Property and the general public from exposure to residual contaminants which may pose human health concerns by restricting use of the Property appropriately. Accordingly, this Covenant is not, and shall not be construed as, a statement, admission, or declaration that the Covenantor or the Department intends to create or permit

95 157281

1 to exist on the Property a health, safety, environmental, or
2 other hazard or nuisance.

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5 ARTICLE III

6 DEFINITIONS

7 3.01 Department. "Department" shall mean the California
8 State Department of Toxic Substances Control and shall include
9 its successor agencies, if any.

10
11 3.02 Improvements. "Improvements" shall mean all
12 buildings, roads, driveways, regrading, and paved parking areas,
13 constructed or placed upon any portion of the Property.

14
15 3.03 Occupant(s). "Occupant(s)" shall mean those persons
16 entitled by ownership, leasehold, or other legal relationship to
17 the exclusive right to occupy any portion of the Property.
18 Occupants shall not include an occupant's licensees or invitees.

19
20 3.04 Owner(s). "Owner(s)" shall mean the Covenantor or its
21 successors in interest, including heirs and assigns, who hold
22 title to all or any portion of the Property.

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24
25 3.05 Director. "Director" shall mean the Director of the
26 California Department of Toxic Substances Control or his or her
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designee.

ARTICLE IV

DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

4.01 Restrictions on Development and Use. Covenantor promises to restrict the use of the Property as described in said Exhibit A as follows:

- a. Property shall be restricted to parks, open space, commercial or industrial uses.
- b. Residential development for human habitation shall not be permitted on the Property.
- c. Hospitals or health clinics shall not be permitted on the Property.
- d. Day-care centers for either children or senior citizens shall not be permitted on the Property.
- e. Schools for children under 21 years of age shall not be permitted on the Property.
- f. No groundwater shall be extracted on the Property for purposes other than site remediation or construction dewatering.
- g. No raising of food (cattle, food crops, cotton,

1 chickens) shall be permitted on the Property.

2 h. Subdivision of the Property is forbidden, except as
3 allowed under Health and Safety Code Section 25232(a)(2) and
4 (b)(2).

5 i. No activities which will disturb the soil (e.g.,
6 excavation, grading, removal, trenching, filling, earth
7 movement, or mining) shall be permitted on the Property
8 without a Health and Safety Plan and a Soils Management Plan
9 submitted to the Department for review and approval.

10 j. The Property shall be posted with a bilingual sign in
11 English and Spanish stating that no grading, excavation or
12 construction activities can occur on the Property without
13 written permission of the Department.

14 k. Any contaminated soils brought to the surface by
15 grading, excavation, trenching or backfilling shall be
16 managed in accordance with all applicable provisions of
17 state and federal law.

18 l. All uses and development of the Property shall preserve
19 the integrity of the vegetated soil cover and shall not
20 disturb the integrity of any hazardous substances
21 containment.

22 m. The Owner(s)/Occupant(s) shall maintain all vegetated
23 soil cover, groundwater monitoring wells, fences, gates and
24 warning signs, as specified in the Draft Remedial Action
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Plan and Operation and Maintenance Plan for the Site.

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2 n. Any proposed alteration of the vegetated soil cover
3 shall require written approval by the Department.

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5 o. The Owner(s) shall monitor the vegetated soil cover
6 yearly for deterioration and integrity.

7 p. The Owner(s) shall notify the Department of each of the
8 following: 1) The type, cause, location and date of any
9 disturbance to the vegetated soil cover which could affect
10 its ability to contain subsurface hazardous substances on
11 the Property and 2) The type and date of repair of such
12 disturbance. Notification to the Department shall be made
13 by registered mail within ten (10) working days of both the
14 discovery of the disturbance and the completion of repairs.
15

16 q. If groundwater monitoring detects contamination at
17 levels of concern, the Owner(s) shall develop and submit a
18 plan of action for Department approval.
19

20 r. The Department shall be allowed access to the Property
21 for inspection, surveillance, monitoring, maintenance, and
22 other activities consistent with the purposes of this
23 covenant as deemed necessary by the Department in order to
24 protect the public health and safety. Except in case of
25 emergency, Department personnel shall conduct inspections
26 during normal business hours, notify the Owner(s) in
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1 advance, or upon arrival at the property, of their desire to
2 inspect the property and shall not attempt to inspect the
3 property without notice to, or unaccompanied by, a
4 representative of the owner.

5 s. Prior to sale, lease, or rental, the Owner(s) shall give
6 written notice to purchasers, lessees, and tenants stating
7 that there is residual contamination as specified in Health
8 and Safety Code Section 25359.7(a).

9 4.02 Conveyance of Property. The Owner(s) shall provide a
10 fifteen (15) days advance notice to the Department of any sale,
11 lease or other conveyance of the Property or an interest in the
12 Property to a third person. The Department shall not, by reason
13 of the Covenant, have authority to approve, disapprove, or
14 otherwise affect any sale, lease, or other conveyance of the
15 Property.
16

17 4.03 Enforcement. Failure of the Owner(s) to comply with
18 any of the requirements, as set forth in Section 4.01, shall be
19 grounds for the Department, by reason of the Covenant, to require
20 that the Owner(s) modify or remove any improvements constructed
21 in violation of Section 4.01. Violation of the Covenant shall be
22 grounds for the Department to file civil and criminal actions
23 against the Owner(s) as provided by law.
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27 ARTICLE V

10/20/81 CC

VARIANCE AND TERMINATION

1 5.01 Variance. Any Owner(s) or, with the Owner(s)' written
2 consent, any Occupant of the Property or any portion thereof may
3 apply to the Department for a written variance from the
4 provisions of this Covenant. Such application shall be made in
5 accordance with Section 25233, Health and Safety Code. The
6 Department shall provide notice to the Owner(s) before taking
7 action on any such application by any Occupant and shall permit
8 the Owner(s) to intervene in any proceeding on the application,
9 as set forth in said Section 25233.
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11
12 5.02 Termination. Any Owner(s) or, with the Owner's(s')
13 written consent, any Occupant of the Property or a portion
14 thereof may apply to the Department for a termination of the
15 Restrictions as they apply to all or any portion of the Property.
16 Such application shall be made in accordance with Section 25234,
17 Health and Safety Code. The Department shall provide notice to
18 the Owner before taking action on any such application by any
19 Occupant and shall permit the Owner(s) to intervene in any
20 proceeding on the application, as set forth in said Section
21 25233.
22

23
24 5.03 Term. Unless terminated in accordance with Section
25 5.02 above, by law or otherwise, this Covenant shall continue in
26 effect in perpetuity.
27

ARTICLE VI

MISCELLANEOUS

6.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

6.02 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective 1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served, or 2) five (5) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

To: "Covenantor" c/o Law Department
Southern Pacific Transportation Company
One Market Plaza, Eighth Floor
San Francisco, CA 94105

To: Dept. of Toxic Substances Control, Region 2
700 Heinz Avenue, Suite 200
Berkeley, CA 94710
Attention: Chief, Site Mitigation Branch

6.03 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be

95 152781

1 invalid for any reason, the remaining portion shall remain in
2 full force and effect as if such portion had not been included
3 herein.

4
5 6.04 Article Headings. Headings at the beginning of each
6 numbered article of this Covenant are solely for the convenience
7 of the parties and are not a part of the Covenant.

8
9 6.05 Recordation. This instrument shall be executed by the
10 Covenantor and by the Site Mitigation Branch Chief, California
11 Department of Toxic Substances Control. This instrument shall be
12 recorded by the Covenantor in the County of Contra Costa within
13 ten (10) days of the date of execution.

14
15 6.06 References. All references to Code sections include
16 successor provisions.

17
18 6.07 Cure. The Department shall give Covenantor written
19 notice and a reasonable opportunity to cure any alleged default
20 by Covenantor prior to exercising its remedies.

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23 IN WITNESS WHEREOF, the parties execute this Covenant as of the
24 date set forth above.

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OWNER: Southern Pacific Transportation Co.

By: Mon Casey

Title: Asst. Vice President and General Manager
Real Estate

Date: July 5, 1995

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

By: Barbara J Cook

Barbara Cook

Chief, Site Mitigation Branch, Region 2

Date: July 25, 1995

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1 STATE OF CALIFORNIA)

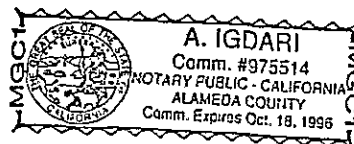
2 COUNTY OF Alameda)

3
4 On July 25, 1995 before me, the
5 undersigned, a Notary Public in and for said state, personally
6 appeared Barbara Cook, personally known to me or proved to me on
7 the basis of satisfactory evidence to be the person whose name is
8 subscribed to the within instrument and acknowledged to me that
9 she executed the same in her authorized capacity, and that by her
10 signature on the instrument the Department of Toxic Substances
11 Control executed the instrument.
12

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14 WITNESS my hand and official seal.

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17 Signature A. Igdari

(Seal)



95-152781

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

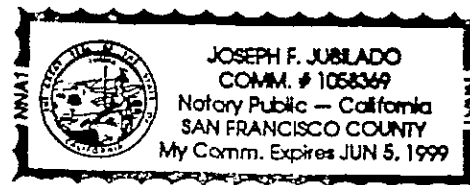
On JULY 10, 1995 before me, the undersigned, a Notary Public in and for said state, personally appeared M. W. CASEY, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Joseph F. Jusilado

(Seal)



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EXHIBITS

EXHIBIT A

LEGAL DESCRIPTION OF SITE

93 132/01

April 8, 1993
0132-93-00

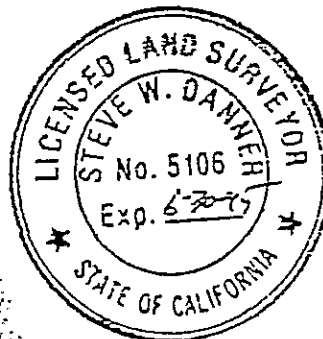
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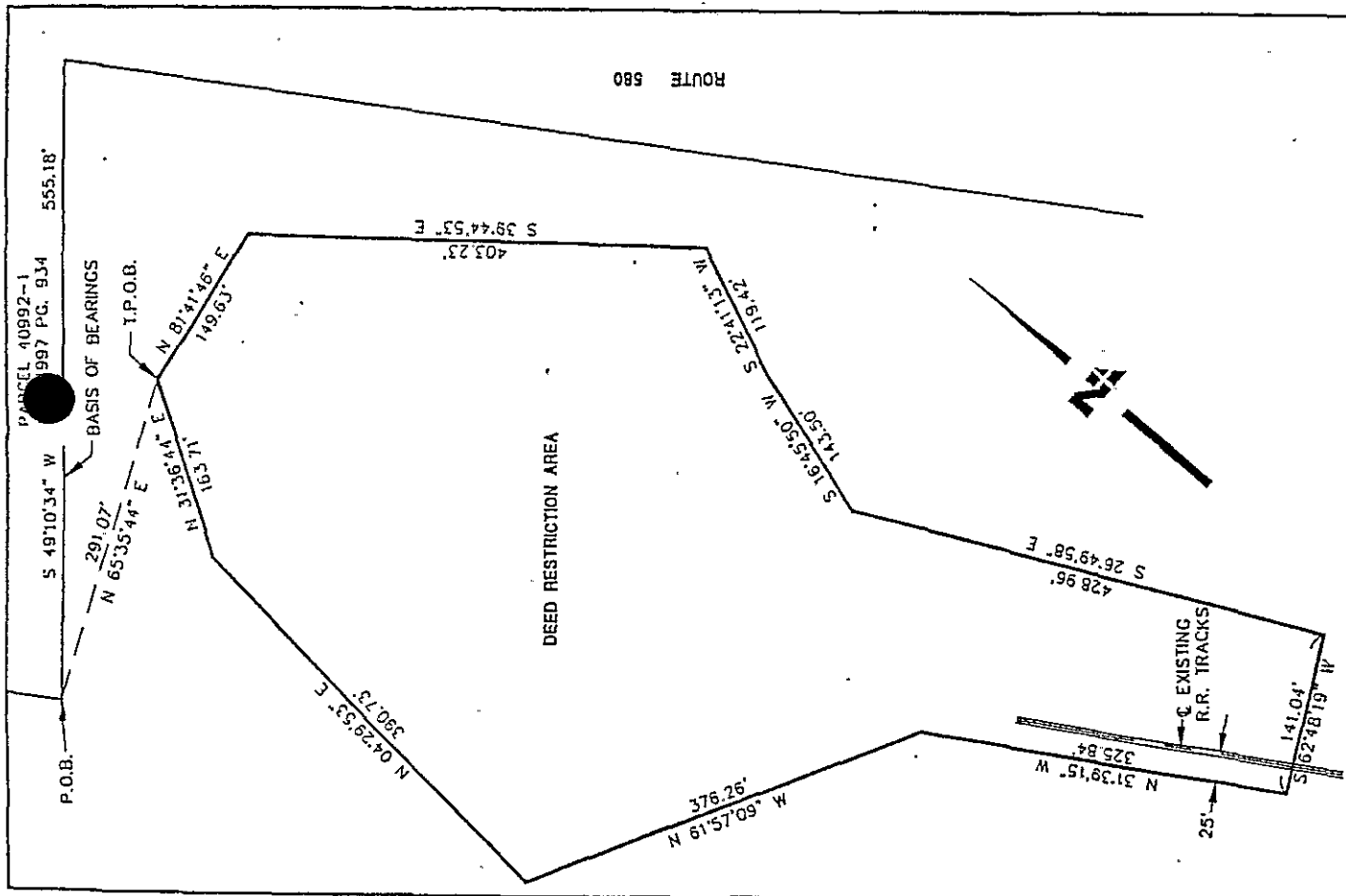
LEGAL DESCRIPTION
For
DEED RESTRICTION
AT SOUTHERN PACIFIC TRANSPORTATION COMPANY
LIQUID GOLD SITE

All that certain real property situated in the City of Richmond, County of Contra Costa, State of California, being a portion of the parcels of land described in the following deeds, Book 126 of Deeds at page 511 recorded July 23, 1907, Book 124 of Deeds at page 403 recorded April 15, 1907, Book 120 of Deeds at page 338 recorded October 18, 1906, and Book 425 of Official Records at page 197 recorded January 29, 1937, Contra Costa County Records, being also a portion of Sections 20 and 29 in Township 1 North Range 4 West M.D.B. & M. being more particularly described as follows:

Beginning at the southwesterly terminus of a course in the general southerly line of Parcel 409921-1 as described in the Amended Final Order of Condemnation recorded April 12, 1989 in Book 14997 of Official Records at page 934, Contra Costa County Records, said course having a bearing of S 49° 10' 34" W and a length of 555.18 feet;
thence N 65° 35' 44" E, 291.07 feet to the TRUE POINT OF BEGINNING;
thence N 81° 41' 46" E, 149.63 feet;
thence S 39° 44' 53" E, 403.23 feet;
thence S 22° 41' 13" W, 119.42 feet;
thence S 16° 45' 50" W, 143.50 feet;
thence S 26° 49' 58" E, 428.96 feet;
thence S 62° 48' 19" W, 141.04 feet to the southwesterly line of the parcel of land as described in the deed recorded Jan 29, 1937 in Book 425 of Official Records at page 197, Contra Costa County Records;
thence along said southwesterly line and its northwesterly prolongation N 31° 39' 15" W, 179.03 feet;
thence N 53° 34' 34" W, 508.44 feet;
thence N 4° 29' 53" E, 390.73 feet;
thence N 31° 36' 44" E, 163.71 feet to the TRUE POINT OF BEGINNING.

Checked by Steve W. Danner





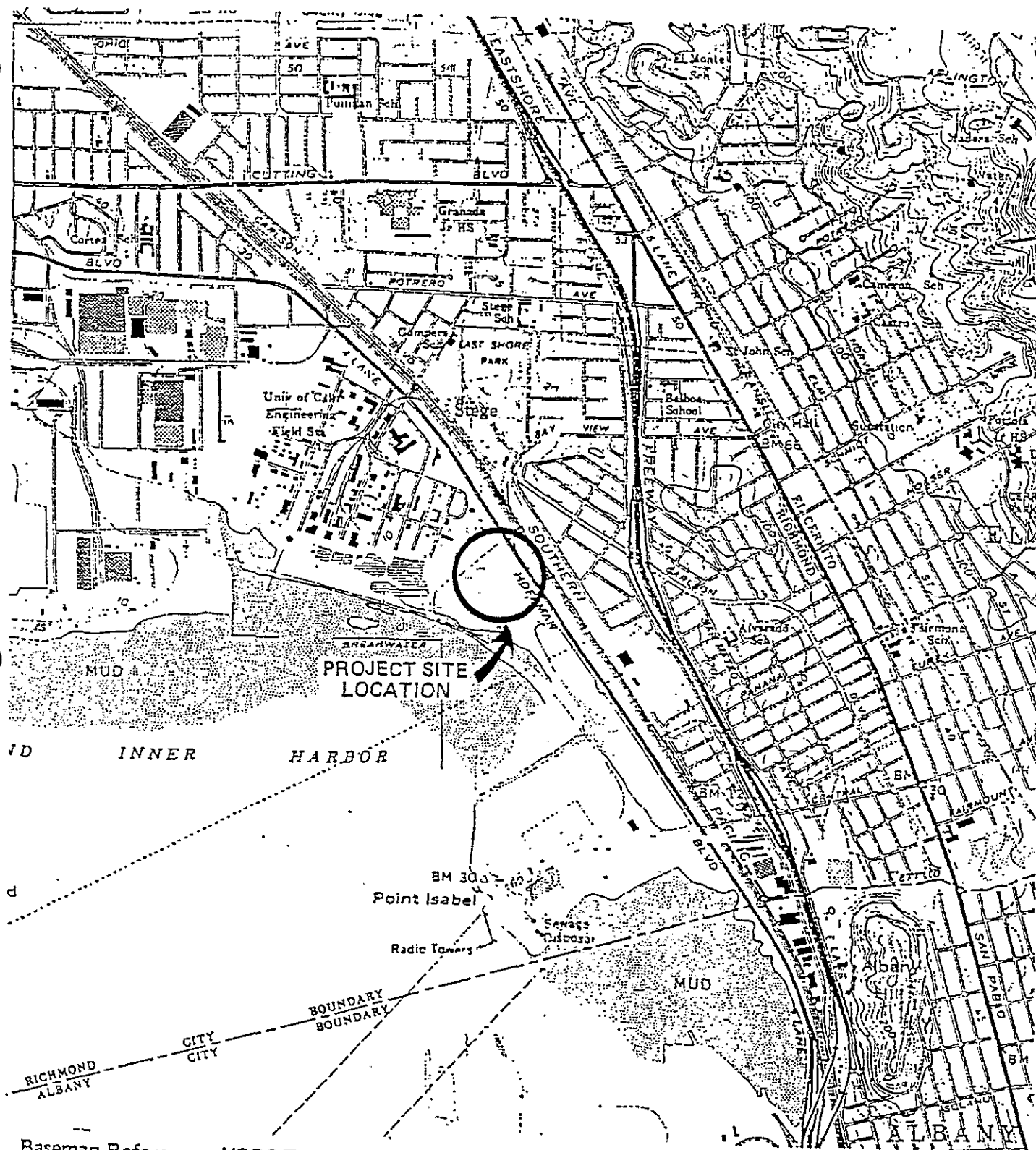
DATE: 3-31-93 SCALE: 1"=100' DRAWN: EG CHECKED: DLA JOB NO. 132-93-00		2 NOLTE and ASSOCIATES SAN JOSE • WALNUT CREEK SAN DIEGO • SACRAMENTO	PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR DEED RESTRICTION AT SOUTHERN PACIFIC TRANSPORTATION COMPANY LIQUID GOLD SITE RICHMOND CALIFORNIA
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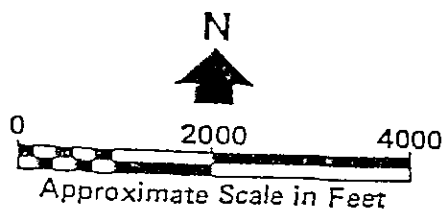
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EXHIBIT B

SITE LOCATION MAP



Basemap Reference: USGS Topographic Map
 Richmond Quadrangle 7.5 Minute Series
 Photorevised 1980



Kennedy/Jenks Consultants

Southern Pacific Transportation Company
 Liquid Gold Site

Site Location Map

K/J 855018.14
 February 1993

TABLE 2

OWNERSHIP OF NEARBY PROPERTIES
LIQUID GOLD SITE - RICHMOND, CALIFORNIA
K/J 855018.14

Page 1 of 1

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PARCEL NUMBERS	OWNER
13, 42	Southern Pacific Transportation Company San Francisco, California
14, 20, 23, 25, 27, 34, 37, 39, 40	SF Pacific Properties San Francisco, California
26	United States Postal Service San Bruno, California
24, 29, 30	East Bay Municipal Utility District Oakland, California
35, 36, 38	City of Richmond Richmond, California
700, 701	Santa Fe Energy Resources, Inc. Midland, Texas

Note: This information was provided by the Contra Costa County Assessor's office on 26 January 1993. The Assessor's office attaches a disclaimer warning about possible errors and omissions in the data. See Figure 8 for a copy of the Assessor's map.

855018.14

EXHIBIT E

HEALTH EFFECTS OF CONTAMINANTS

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HEALTH EFFECTS OF CONTAMINANTS ALLOWABLE EXPOSURE VALUES

CHEMICAL	TLV ¹ TWA (mg/m ³)	STEL ¹ (mg/m ³)	PEL ² (mg/m ³)	ACUTE EXPOSURE SYMPTOMS ³	TARGET ORGANS ³
Lead, inorganic fumes and dust	0.15	NE ⁴	0.05	Lassitude; insomnia; pallor, eye grounds; anorexia, low weight, malnutrition; constipation; abdominal pain, colic; hypotense; anemia; gingival lead line; trembling, paralysis of wrists	GI tract, central nervous system, kidneys, blood, gingival tissues
Nickel, metal and soluble compounds	1	NE	1	Sensitization dermatitis; allergic asthma; nasal cavities; pneumonitis; (carcinogenic)	Nasal cavities, lungs, skin
Copper, dust and mist	1	NE	1	Irritation of mucous membranes, pharynx; nasal perforation; eye irritation; metal taste; dermatitis	Respiratory system, skin, liver, kidneys, increased risk with Wilson's disease
Chromium metal and insoluble salts	0.5	NE	0.5	Histologic fibrosis of lungs	Respiratory system
Zinc (nuisance dust)	10	NE	10	Metallic taste, dry throat	Respiratory system
Oil and Grease (specific chemical components are not identified by this method)	-	-	-	-	-
Petroleum Hydrocarbons (as gasoline)	890	1,500	900	Irritation of skin, mucous membranes, dermatitis; flushing of face; staggering gait; slurred speech; mental confusion	Central nervous system
Mercury	0.1	-	0.05	Coughing, chest pain, insomnia, indigestion, headache, weakness, fatigue	Skin, respiratory system, central nervous system, kidneys, eyes
Polycyclic Aromatic Hydrocarbons (as coal tar pitch volatiles)	0.2	NE	0.2	Dermatitis, bronchitis	Respiratory system, skin, bladder, kidneys
Nuisance Dust (total)	10	NE	10	-	-

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HEALTH EFFECTS OF CONTAMINANTS
ALLOWABLE EXPOSURE VALUES

NOTES:

1. TLV - TWA = Threshold Limit Value - 8 hr. Time Weighted Average
STEL = Short Term Exposure Limit
American Conference of Governmental Industrial Hygienists. Threshold Limit Values (TLV) and Biological Exposure Indices for 1991-1992.
TLV - TWA reported in mg/m³ represents milligrams of substance per cubic meter of air.
2. PEL = Federal OSHA (29 CFR 1910 Subpart Z) Permissible Exposure Level based on 8 hour time weighted average. U.S. Department of Health and Human Services.
NIOSH Pocket Guide to Chemical Hazards. June 1990.
3. Sittig, Marshall. 1985. Handbook of Toxic and Hazardous Chemicals and Carcinogens. Park Ridge, New Jersey. Noyes Publications.
4. NE = Not established.

Sources: NIOSH Pocket Guide to Chemical Hazards, June 1990.

Sittig, Marshall. Handbook of Toxic and Hazardous Chemicals and Carcinogens. Second Edition. Noyes Publications. 1985.

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